



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

NORTHWEST TEXAS HOSPITAL

3255 W. PIONEER PKWY

ARLINGTON, TEXAS 76013

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-07-5063-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated April 6, 2007: "per the ACIHFG, claims with charges over \$40,000 are to be payable at 75% of charges"

Amount in Dispute: \$47,978.33

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated May 3, 2007: "Texas Mutual Insurance Company received a TWCC-60 from the above mentioned requester."

Response Submitted by: Texas Mutual Insurance Company. 6210 E Hwy 290, Austin, Texas 78723.

Respondent's Supplemental Position Summary Dated September 7, 2011: "The requestor's DWC-60 packet contains no information substantiating its position (a) that the stop-loss exception has only to exceed \$40,000.00 in audited charges and (b) that the admission was unusually extensive or costly. Therefore, no additional payment is due."

Response Submitted by: Texas Mutual Insurance Company.

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
July 31, 2006 through August 5, 2006	Inpatient Hospital Services	\$47,978.33	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits dated September 21, 2006

- 711-PRE-AUTHORIZATION GIVEN FOR 2 DAYS ONLY. BILLED CHARGES DO NOT MEET THE STOP-LOSS METHOD STANDARD OF THE 08/01/97 ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE. THE CHARGES DO NOT INDICATE AN UNUSUALLY COSTLY OR UNUSUALLY EXTENSIVE HOSPITAL STAY. THE INTENT OF STOP-LOSS PAYMENT IS TO COMPENSATE HOSPITALS FOR INPATIENT STAYS THAT ARE EITHER COSTLY TO THE FACILITY BY AN UNUSUALLY LONG LENGTH OF STAY OR THE PROVISION OF UNUSUALLY COSTLY TYPES OF SERVICES. THE PROVISION OF IMPLANTABLES THROUGH THE FACILITY DOES NOT FIT EITHER THESE SITUATIONS.
- CAC-W1 – Workers compensation state fee schedule adjustment.
- CAC-W10 – No maximum allowable defined by fee guideline. Reimbursement made based on insurance carrier fair and reasonable reimbursement methodology.

Explanation of Benefits dated November 13, 2006

- 711-pre-authorization given for 2 days only. Billed charges do not meet the stop-loss method standard of the 08/01/97 acute care inpatient hospital fee guideline. The charges do not indicate an unusually costly or unusually extensive hospital stay. The intent of stop-loss payment is to compensate hospitals for inpatient stays that are either costly to the facility by an unusually long length of stay or the provision of unusually costly types of services. The provision of implantables through the facility does not fit either these situations.
- Cac-w1 – workers compensation state fee schedule adjustment.
- Cac-82–payment denied/reduced for absence of, or exceeded, pre-certification/authorization.
- Cac-97–payment is included in the allowance for another service/procedure.
- 426 – reimbursed to fair and reasonable.
- 480 – reimbursement based on the acute care inpatient hospital fee guidelines.
- 711–length of stay exceeds number of days previously preauthorized-documentation does not support medical necessity for additional days.
- 730 – denied as included in per diem rate.
- 217 – the value of this procedure is included in the value of another procedure performed on this date.

Explanation of Benefits dated January 11, 2007

- CAC-18 – Duplicate claim/service.
- 878 – Duplicate appeal. Request medical dispute resolution through DWC For continued disagreement of original appeal decision.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above

was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed..." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$102,268.50. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its original position statement asserts that "...a claim does not have to meet any requirements as to being unusually extensive, or costly in nature. We maintain to give our patient the best of care available but if our bills are constantly reduced to what the carrier's feel is "fair and reasonable" we will one day face having to close our facility as most of the times this "fair and reasonable" payments barely cover our cost to operate and maintain the highest level of service..." In its position statement, the requestor presupposes that it is entitled to the stop loss method of payment because the audited charges exceed \$40,000. As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment to the contrary. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services." The requestor failed to discuss or demonstrate the particulars of the admission in dispute that constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
3. In regards to whether the services were unusually costly, the requestor presupposes that because the bill exceeds \$40,000, the stop loss method of payment should apply. The third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The requestor failed to discuss the particulars of the admission in dispute that constitute unusually costly services; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." The length of stay was five days; however review of the explanation of benefits finds that only two days were pre-authorized. No documentation was found to refute the denial for pre-authorization; for that reason, only two days are allowed. The surgical per diem rate of \$1,118.00 multiplied by the authorized two days results in an allowable amount of \$2,236.00.
 - 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed one units of Propofol 10mg/ml 20 ml, for a total charge of \$282.00. The requestor did not submit documentation to support what the cost to the hospital was for Propofol 10mg/ml 20 ml. For that reason, reimbursement for these items cannot be recommended.

- Review of the medical documentation provided finds that although the requestor billed items under revenue code(s) 275, 276 or 278, no invoices were found to support the cost of the implantables billed. For that reason, no additional reimbursement is recommended

The division concludes that the total allowable for this admission is \$2,236.00 per diem. The respondent issued payment in the amount of \$28,723.05. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	October 11, 2012 Date
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Signature	Medical Fee Dispute Resolution	October 11, 2012 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service demonstrating that the request has been sent to the other party.***
Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.